



IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
ANDERSON/GREENWOOD DIVISION

MANVEL LEE BROWN,
Plaintiff,

vs.

HEAD NURSE DONNA OR DONALD
AT GWD, SC, LIEUTENANT LUKE LARK,
and CAPTAIN SHARON MIDDLETON,
Defendants.

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CIVIL ACTION NO. 8:14-1902-MGL-JDA

ORDER ADOPTING THE REPORT AND RECOMMENDATION,
GRANTING DEFENDANT NURSE'S MOTION TO DISMISS
AND/OR SUMMARY JUDGMENT, AND DISMISSING THE COMPLAINT
AS TO THE REMAINING DEFENDANTS

This case was filed as a 42 U.S.C. § 1983 action. The matter is before the Court for review of the Report and Recommendation (Report) of the United States Magistrate Judge suggesting that Defendant Nurse's motion to dismiss and/or summary judgment be granted and that the complaint be dismissed as to the remaining defendants. The Report was made in accordance with 28 U.S.C. § 636 and Local Civil Rule 73.02 for the District of South Carolina.

The Magistrate Judge makes only a recommendation to this Court. The recommendation has no presumptive weight. The responsibility to make a final determination remains with the Court. *Mathews v. Weber*, 423 U.S. 261, 270 (1976). The Court is charged with making a de novo determination of those portions of the Report to which specific objection is made, and the Court may

accept, reject, or modify, in whole or in part, the recommendation of the Magistrate Judge or recommit the matter with instructions. 28 U.S.C. § 636(b)(1).

The Magistrate Judge filed the Report on August 25, 2014, but Plaintiff failed to file any objections. * “[I]n the absence of a timely filed objection, a district court need not conduct a de novo review, but instead must ‘only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.’” *Diamond v. Colonial Life & Acc. Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005) (quoting Fed. R. Civ. P. 72 advisory committee’s note). Moreover, a failure to object waives appellate review. *Wright v. Collins*, 766 F.2d 841, 845-46 (4th Cir. 1985).

After a thorough review of the Report and the record in this case pursuant to the standard set forth above, the Court adopts the Report and incorporates it herein. Therefore, it is the judgment of this Court that Defendant Nurse’s motion to dismiss and/or summary judgment is **GRANTED** and the complaint is **DISMISSED** as to the remaining defendants.

* The Court notes that Plaintiff is likely unaware of the Report in that, on September 10, 2014, Plaintiff’s copy of the Report was returned to the Clerk of Court marked “RTS[:] NOT AT THIS FACILITY[.]” In a May 19, 2014, Order, the Court explicitly directed Plaintiff to keep the Court apprised of his current mailing address and warned that failure to do so might result in dismissal of his case. In light of Plaintiff’s failure to do as instructed, the Court will dispose of the case today without further delay.

IT IS SO ORDERED.

Signed this 16th day of September, 2014, in Spartanburg, South Carolina.

s/ Mary G. Lewis
MARY G. LEWIS
UNITED STATES DISTRICT JUDGE

NOTICE OF RIGHT TO APPEAL

Plaintiff is hereby notified of the right to appeal this Order within thirty days from the date hereof, pursuant to Rules 3 and 4 of the Federal Rules of Appellate Procedure.